

## REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on December 29, 2004, made final. Claims 1-20 are presented for examination. In the Office Action the Examiner has rejected claims 1-20 under 35 U.S.C. 103(a) as being unpatentable over Newhall (US 5,682,479) hereinafter Newhall.

Applicant has carefully noted and reviewed the rejections, the references, and the Examiner's comments and "Response to Arguments". Applicant herein provides arguments to more particularly point out the subject matter regarded as inventive, distinguishing unarguably over the reference of Newhall as cited and applied by the Examiner.

Regarding claim 1, the Examiner states that Newhall (Fig. 21) teaches monitoring port status on a continuing or periodic basis (col. 13, lines 1-7). Applicant respectfully disagrees. Newhall teaches a configuration element 1012 which stores information about routers, ports and even whether the ports are active etc. Applicant argues that there is no teaching in Newhall of active monitoring, either continuous or periodic, of said ports by the configuration element or any other means.

The Examiner responds to this argument stating that Newhall teaches a configuration element 1012 in a router containing port status (active, faults) information. The Examiner states that there *has to be* a monitoring means in order for the status of the ports to be known.

Applicant respectfully traverses the Examiner's reasoning for obviousness. Applicant argues that without the benefit of considering applicant's disclosure, one with skill in the art would come to the conclusion that configuration element 1012 is only updated as a result of a packet fault, as is known in the art. Only considering the teachings of applicant's disclosure does the Examiner have the option of considering periodic or continual monitoring being inherent in the art of Newhall.

Newhall's specification falls short of any teaching of monitoring of ports occurring internal to specific routers. Newhall teaches an exploration sequence when

initializing routing packets in the network, or intermittently as a result of a fault in the network, only then is the information in 1012 utilized in Newhall's system.

Applicant draws the Examiner's attention to Newhall's col. 11, lines 13-22 where Newhall teaches network exploration. Specifically Newhall teaches that one or more nodes on the network explore the network to obtain information about each of the other nodes and the connection paths there between. This information includes configuration information identifying routers 204 explored, identifying routes between the nodes 102 and connectivity information including what devices are connected to each of the router ports 404. This step of network exploration is described in more detail in Section 4 of this document.

Lines 49-65 of the same column of Newhall teaches that in steps 920 and 924 of Fig. 9, the network continues to operate using the determined routing information until a fault occurs or until the network is reconfigured. In the event the network is reconfigured, the process of dynamic routing begins again with the step of exploring the network to determine the actual configuration. In the event of a fault, the network can also be re-explored as was the case with the reconfiguration. However, in the case of most faults, a re-exploration of the network is not necessary. Therefore, according to a preferred embodiment, when a fault occurs existing configuration information used to determine a new route around the fault and the router tables in the affected nodes 102 are reprogrammed to reflect the new route. Dashed line 974 illustrates that after a fault, the network can also be re-explored. However, for most faults, it is not foreseeable that a complete re-exploration would be required.

Applicant points out the main problem which still exists in the art of Newhall is in the case of an additional port failure being relied upon to re-route packets used from Newhall's existing configuration information used to determine the new routes. Applicant argues that the information carried in configuration element 1012 of each router is only utilized to update routing information during those explorations as taught in Newhall. Again, applicant points out the network explorations are not the result of monitoring hardware in the system. Explorations are specifically taught to be carried out at the point of initiating the routing system, re-configuration of the network, or, in the rare occasion as a result of a fault (col. 12, lines 21-37).

Applicant points out that "how" the port information arrives in the configuration elements 1012 is irrelevant to applicant's invention because the information is only utilized at the point of explorations. Configuration element 1012 is not accessed and used by the router every time a packet flow comes through. 1012 is only held in order to write to packets used in the exploration process, which is only when the network is re-configured, at initiation of the system, or as the result of a fault (packet failure).

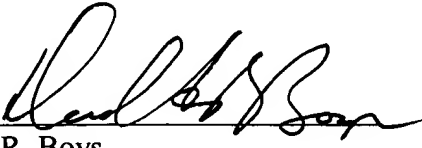
Newhall fails to teach monitoring ports in the network as claimed. Applicant believes that claim 1, as argued above, is patentable over the art of Newhall provided by the Examiner. Claims 2-6 are patentable on their own merits, or at least as dependent upon a patentable claim.

Regarding claims 7 and 13, applicant believes the arguments provided above easily serve to argue the patentability of these independent claims as they hold limitations included in said argument. Claims 8-12 and 14-20 are patentable on their own merits, or at least as dependent from a patentable claim.

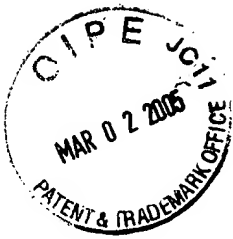
As all of the claims, as argued, are clearly shown to be patentable over the art of Newhall, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,  
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Date of Deposit: 03/02/2005

Ref: Case Docket No.: P4505

Application of: David Skirmont et al.

Serial Number: 09/663,869

Filing Date: 09/15/2000

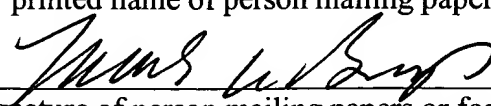
Title of Case: Router-Level Automatic Protection Switching

I hereby certify that the attached papers are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and addressed to the Commissioner for Patents, Alexandria, VA 22313-1450.

1. Response C.
2. RCE Transmittal.
3. Duplicate RCE Transmittal.
4. Check for fees in the amount of \$395.00 for the RCE.
5. Certificate of express mailing.
6. Postcard listing contents.

Mark A. Boys

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